GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Backward Classes Welfare Department - Appeal Petition filed by Sri Kolla Vamshi Krishna, S/o K.Venkat Rao and Sri K.Venkat Rao, R/o H.No.8-457, Nirmalanagar, Ongole, Prakasam District U/s 7 (2) of the AP (SCs, STs and BCs) Regulation of issue of community certificates Act, 1993 (AP Act No.16/1993) – The matter remanded back to District Collector, Prakasam District - Orders – Issued.

BACKWARD CLASSES WELFARE (F) DEPARTMENT

G.O.RT.No. 18 Dated: 02-02-2017

Read the following :-

1. Proceedings of the Collector & District Magistrate Prakasam Rc.C4/1050/2009, dt.11.04.2011.
2. Appeal petition filed by Kolla Vamshi Krishna, Dated.13.05.2011.
3. Govt., Memo No.2411/C/2011, Dated.02.07.2011, 04.04.2012,12.12.2012,12.02.2013.
4. Proceedings of the Collector & District Magistrate, Prakasam Rc.C4/1050/2009, Dated.11.02.2013
5. Appeal Petition of Sri Kolla Venkat Rao, Prakasam District Dated.06.03.2013.
6. From the Collector & District Magistrate, Prakasam District Lr.Rc.No.C4/1050/2009, Dated.07.06.2013.
7. Implead petition of Smt G.Nirmala Devi, R/o West maredpally, Secunderabad, Dated.8.7.2013.
8. Govt., Memo No.2411/C/A2/2011, Dated.23.07.2013.
9. From the Collector & District Magistrate, Prakasam District Lr.Rc.C4/1050/2009, Dated.21.11.2013.
10. Govt., Memo No.2411/C/A2/2011, Dated.05.10.2014, 23.12.2015, 25.04.2016 & 18.07.2016.

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O R D E R :-

In the reference 1st and 4th read above, the District Collector, Prakasam District had issued orders cancelling BC- A Vada Balija caste certificate obtained from the Mandal Revenue Officer, Ongole by Sri Kolla Hari Vamshi Krishna, S/o Kolla Venkatarao and Sri Kolla Venkatrao, Ongole, Prakasam District.

2. In the reference 2nd and 5th read above, Sri Kolla Hari Vamshi Krishna, S/o Kolla Venkatarao and Sri Kolla Venkatrao, Ongole, Prakasam District have filed an appeal petition U/ s 7(4) of the AP (SC, ST, BC) regulation of issue of community certificates act 1993, and rules 1997 before the Government, against the said Proceedings of the District Collector, Prakasam District. The appeal petition was taken on file and the case was finally heard on 08-08-2016. Both the petitioners and the representative of the 3rd respondent has appeared and filed their written arguments.

3. In the reference 7th read above, Smt G.Nirmala Devi, R/o Maredpally, Secunderabad who is respondent No.3 of the above two appeals has filed implead petition against the appeals of the Sri Kolla Hari Vamshi Krishna, S/o Kolla Venkatarao and Sri Kolla Venkatrao, Ongole, Prakasam District

4. In the reference 6th read above, the District Collector, Prakasam District has furnished the parawise remarks and connected records on the appeal petition filed by Sri Kolla Hari Vamshi Krishna, S/o Kolla Venkatarao and Sri Kolla Venkatrao, Ongole, Prakasam District.

5. The said appeal Petition has been posted for hearing on 15.12.2014, 16.02.2015, 29.02.2016, 31.05.2016 and finally on 8.8.2016 and the same has been informed to the Appellant and the Counsel of the appellant and they were requested to attend for the hearing along with all documentary evidences / certificates in support of the community claim, failing which it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the reference 7th read above.

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6. The brief facts and contention of petitioner(s) are as follows:-

The Commissioner, BC Welfare Department, AP., Hyd., while forwarding the representation of Sri. R. Krishnaiah, President, AP BC Welfare Association, Hyderabad Dt. 17-07-2009 to the District Collector, Prakasam District has requested to conduct enquiry about the BC-A "Vada Balija" Caste certificate of Sri. Kolla Venkatarao, presently working as Head Master, at ZP High School Inamenamellur and of his son Dr. K. Hari Vamshi Krishna as it was alleged that though they belongs to OC Kapu Community, managed to obtain BC- A "Vada BALIJA" caste certificate to facilitate appointment of Sri K. Venkatarao in Government Service and his son Sri. K. Hari Vamsi Krishna secured MBBS and DLO (PG) seat.

Further, Dr. Archana Rao, w/o Dr. K. Hari Vamsi Krishna also filed a complaint to the District Collector, Prakasam for making enquiry of the bogus BC- A caste certificate obtained by both Sri. Kolla Venkatarao and his Son Dr. K. Hari Vamsi Krishna.

The then Joint Collector & Chairman, DLSC Prakasam has directed to process for enquiry by DLSC vide instructions dt:25-08-2009 and accordingly the above issue has been referred to DLSC and after finalization of proceedings in DLSC the committee recommended for cancellation of the fake "VADA BALIJA" BC- A caste certificate held by Sri. Dr. Kolla Hari Vamsi Krishna S/o Venkatarao, Ongole Town and Mandal who obtained fraudulently BC caste certificate from the Mandal Revenue Officer, Ongole dated: 07-08-1997 and Orders were passed by the Collector and District Magistrate, Prakasam District, Ongole vide Proceedings RC.No. C4/1050/2009 dt: 11-04-2011 declaring that Sri. Kolla Hari Vamsi Krishna S/o Venkatarao belong to "BALIJA" OC but not "VADA BALIJA" BC-A group. Accordingly, Gazette Notification was also issued on dt: 18-05-2011.

Sri Kolla Hari Vamsi Krishna S/o Sri. Kolla. Venkatarao has filed an appeal petition before the Government against the orders of the DLSC U/s. 7(2) of the AP certificates Act, 1993.

The DBCWO, Ongole in his letter Dated 20-01-2010 has reported to the District Collector, Prakasam that he enquired at Woollapalem Village with Sri Kolla Sybba Rao S/o Nagaiah, Kola Venkateswarlu S/o Venkata Krishna Rao, Sri Kanala Venkateswarlu S/o Narsimham, Sri Baireddy Venkata Muralidhar Rao, Sarpanch and VRO, and recorded their statements.

The gist of the statements is that about 10 families having "Kolla" as surname in Woollapalem village, ancestors of 'Kolla' surname families are migrated from Ramayaptnam Village to Woollapalem village about 100 years ago, these families depend on boat repair, loading and unloading works (labor), the absence of proper understanding of their caste some of "Kolla" surname students has enrolled their caste in school records as "Balija", "Vada Balija" and "Ediga", "Balija", due to facing difficulties in obtaining caste certificate from revenue officials and with intent as great in the society some of the 'Kolla' surname persons continued as ' Balija' caste. According to the details given by the Villagers of Woollapalem Sri. Kolla. Venkatarao S/o Ankulu may belong to "Vada Balija" caste.

The DLSC has observed that the alleged person's father Kolla. Ankulu S/o Lingaiah has been migrated from Woollapalem Village to Ongole Town, but he has caste people have their traditional occupation is fishing, but this family has never doing fishing as their livelihood. The blood relative of Kolla. Venkatarao i.e., his father Ankulu's caste recorded as "Setty Balija" in school records, his brother Raja Sekhar Babu working in NCC Dept., brother-in-law soreely working in Tobacco Board, as 'BALIJA/TELAGA' caste comes under OC and his another brother-in-law Posupuleti Yanandi Rao alias Rama Krishna working in Postal Department., the surnames of 'Paspuleti','Degala" 'Arika' are popularly known as Balija OC caste. Sri Kolla Ankulu (late) having two sons 1) Venkatarao working as Teachers under

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'Vada Balija' caste BC-A group 2) Raja Shaker Babu, working as Senior Assistant in NCC GP Guntur District under ' Balija" caste OC is contrary and against natural justice. The DBCWO has enquired at Woolapalem Village with reference to surname 'KOLLA' and his enquiry depends upon it, and the report is not considered to determine Kolla. Venkatarao caste, and statements of Villagers, Sarpanch of Woollapalem Village are came to known the incidents about "VADA BALIJA" caste one to another, and the report is oscillating manner/vague. In view of the above, the DLSC has resolved and recommended for the cancellation of 'VADA BALIJA' caste BC-A group, caste certificate dated: 07-08-1997 issued to Kolla. Vamsi Krishna S/o Venkatarao of Ongole Town, from the MRO, Ongole by furnishing false information and filing false statements.

The Collector and District Magistrate, Prakasam District, Ongole in exercise of the powers conferred under section 5(1) of AP (SC/ST/BC) regulation of issue of community certificates Act, 16 of 1993, and read with G.O. Ms. No. 58 S.W.(J) Department dated 12-05-1997, AP. Scheduled Caste, Scheduled Tribes and Backward Classes issue of community. Nativity and Date of Birth certificate Rules, 1997 Sri Kolla. Hari Vamsi Krishna S/o Venkata Rao, Ongole Town and Mandal have obtain fraudulently from the MRO, Ongole District as "VADA BALIJA" BC– A group, permanent caste certificate dated: 07-08-1997 is here by cancelled as she belongs to 'BALIJA' OC., but not to 'VADA BALIJA' caste BC-A group.

Aggrieved by the aforesaid proceedings of the Collector and District Magistrate, Prakasam District, Ongole Sri. Kolla. Hari Vamsi Krishna S/o K. Venkatarao filed an appeal before the Government interalia contending that they are belonging to 'VADA BALIJA' caste and the Tahsildar, Ongole District issued caste certificate to his father during January 1982 after due enquiry. His father joined duty as B.Ed Asst. (BS) on 20-09-1982. After the verification of his antecedents and caste his services were regularized by the appointing authority. But basing on some allegations made against his father caste, the District Collector, Ongole ordered to conduct an enquiry during 1997. The MRO S.konda Mandal has conducted enquiry where ever his fore fathers lived.

During the enquiry his father and Grandfather attended the enquiry and submitted the evidence that they belongs to "VADA BALIJA" caste. The MRO, S.konda submitted his report to the District Collector during 1998 stating his father is belonging to "VADA BALIJA" caste and the file was closed.

Due to some misunderstandings between himself and his wife, his wife filed a criminal case against the petitioner and his father and mother. She has also filed a complaint before the District Collector, Ongole. Basing on that, the Collector Ordered the DLSC to process the case and take necessary action. The petitioner and his father appeared before the DLSC on 24-09-2009 and submitted the evidence and orders in support of their statement. They have also submitted document relating to previous enquiry conducted by the MRO, S.konda, during the year 1998. The DBCWO, has again conducted enquiry at Woollapalem Village of S.konda Mandal and recorded the statements. The enquiry officer had also gone through the school records of blood relatives of the petitioner who are living in that Village. The Village Surpanch VAO and elders of the Village gave statements that they belong to 'VADA BALIJA' caste. Further, the report of the BC Welfare Officer dated: 20-01-2010 is totally behind his back and doesn't disclose as to how he came to a conclusion that the petitioner belong to 'BALIJA' community while his father's statement recorded by the DLSC emphatically discloses that all the family members of the petitioner belonging to "VADA BALIJA" community. The details as to how and on what basis the DBCWO came to such conclusion and the details of the people he enquired were neither disclosed nor furnished to the petitioner. The enquiry was conducted by MRO, S.konda during 1998 reveals that their caste was conformed as "VADA BALIJA".

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The alleged statement of the Villagers were also not furnished to the petitioner and oral statement by such people who either belongs to his community nor can have personal knowledge of the same be relied upon for drawing a conclusion that the petitioner and his family do not belongs to "VADA BALIJA" caste.

The petitioner has further contended that the Hon'ble High Court of AP, in a decision reported in 2003(6) ALT 133 had specifically held that when enquiry authority relaying on the document which goes against the interest of delinquent, the enquiry authority has to furnish such documents for the delinquent to offer his remarks and non supplying of such copies would amount to violation of principles of natural justices and such a report is liable to be set aside.

There was no complaint against the genueinity of his caste certificate by any authority or education institution as contemplated U/r of AP(SC, ST, BC) regulation of issue of community certificate Act 1993 and rules 1997.

Under facts and circumstances explained above, the petitioner has prayed that the Government may be pleased to call for the records relating to and connecting with the order passed by the responded in proceedings in RC No. C4/1050/2009,Dt: 11-04-2011, and notification Dt:11-04-2011 and set aside the same and further declare that I belong to "VADA BALIJA" BC-A community and to pass such other order or orders that are deem fit and proper in the circumstances of the case.

The 3rd respondent i.e., Smt G.Rama Devi has also filed the written arguments stating that the "VADA BALIJA" communities profession is to live by catching fish but the appellant or his family members have never practiced fish catching profession and more over the appellants Grand Father (late) Ankula belong to "BALIJA" community as observed by the DLSC. She has further contended that the appellants version that his father informed that his caste is "VADA BALIJA" BC-A and the then MRO, Ongole issued caste certificate on 07-08-1997 and holding that his farther is responsible for falsely mentioning his caste as "VADA BALIJA" cannot be sustained in the light of the fact that he is a major by then and got full senses of knowledge as his original caste he was and that some of the blood relations of the appellant have obtained certificates as "BALIJA" OC community and enter into different services. Therefore, the District Collector has come to a right conclusion and passed impugned orders on 11-04-2011 duly cancelling the caste certificate of the appellant. She has also filed several documents showing that the appellant has several benefits under BC-A community by fraudulently obtaining the caste certificate from MRO, Ongole and got admission under BC-A category in the education institution. She has therefore requested to dismiss the appeal filed by the appellant and confirm the orders of the District Collector, Prakasam.

7. As part of hearing after examination of the records / the copies of the evidences / academic record/ grounds filed by the appellant / the para wise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated.11.04.2011 & 11.02.2013, the Appellate Authority have gone through the statements recorded by the MRO, S.konda from the people who either belonging to "VADA BALIJA" community and having personal knowledge of the persons belonging to other communities having knowledge with the family of the appellant and residing in the Village during the enquiry the appellant has contended that "KOLLA" surname people are having by "KAMMA", "BALIJA", "VYSYA" and the BC casts "KOLLA" surname families belongs to "VADA BALIJA" caste are residing in Woollapalem Village only. In the same village "KOLLA" surname students are studying in primary and High Schools.

8. The Enquiry Officer has not decided clearly in his report. It is observed that the enquiry report of the DBCWO has not clearly brought out the facts to show whether the applicant belongs to "VADA BALIJA" or "BALIJA", as the statements furnished by the Village Surpanch of the Woollapalem Village are also not clear

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about the caste of the appellant. The proceedings of the District Collector also reveals that the appellant was not furnished with the copies of the statements recorded by the Enquiry Officer to appellant except a copy of the recommendations of the DLSC. Since there is an ambiguity in the evidence gathered by the Enquiry Officer to show that the appellant does not belongs to "VADA BALIJA" community and he belongs to "Balija" community. It is also not disputed that the fore fathers of the appellant are engaged in the activities of community profession (i.e.,) fishing and its ancillary activates. The Appellate Authority rather surprised to notice that how the District Collector, has relied on the vague findings and recommendations of DLSC and drastically came to conclusion simply relying on the fact that some of the blood relations of the appellant claimed to be belonging to "BALIJA" community. It is also observed that in the society, people for the sake of social status in the society due to their economic position and to respect command among the upper comminute may also take the advantage of claiming to be OC community. Further, the District Collector, Ongole before passing the impugned orders ought to have supplied the copies of the statements recorded by the Enquiry Officer from the elders and Villagers of the community of the appellant as required under the acts and rules. **Such denial of the supply of documents tanta amount to deprival of natural justice as the appellant is legally and legitimately deserves for the supply of the copies of the documents so as to enable him to put forth his point of view on the proposed action of the District Collector.**

9. In view of the above circumstances, the Government in exercise of the powers conferred under Section 8 (1) of the Andhra Pradesh (Scheduled Caste, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act No.16 of 1993), it is decided that the matter is hereby remanded to the District Collector, Prakasam District to conduct a Denova Enquiry and furnish all the documents and the statements during the enquiry to the appellant and give him a reasonable opportunity of hearing before passing orders afresh. With the above directions, the appeal Petition(s) filed by Sri Kolla Hari Vamshi Krishna, S/o Kolla Venkatarao and Sri Kolla Venkatrao, Ongole, Prakasam District are disposed off.

10. Consequently, the District Collector, Prakasam District shall take necessary action in the matter.

11. The records (containing Rc.No.C4/1050/2009 pages CF 1 to 195) received from the District Collector, Prakasam District through the reference 9th read above, are returned herewith in original to the District Collector, Prakasam and he shall acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.ANANTHA RAMU
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To
The District Collector, Prakasam District (w.e)
(with original records) (BY RPAD)

Sri Kolla Vamshi Krishna, S/o K.Venkata Rao, H.No.8-457 (5), Nirmal Nagar, Ongole, Prakasam District.
Sri Kolla Venkata Rao, Headmaster, Inamanamellore, Ongole, Prakasam District.
Smt G.Nirmala Devi, Flat B, Block-I, 1st Floor, Chiraipai Appartments, West Maredpally, Secunderabad – 500 026.

Copy to
The Director, B.C.Welfare, A.P., Vijayawada.
PS to Minister (BCW)
SF / SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER